

**A CRITICAL ANALYSIS OF THE ROLE OF THE DIRECTOR OF PUBLIC PROSECUTIONS
IN THE ADMINISTRATION OF CRIMINAL JUSTICE IN UGANDA
A CASE STUDY OF KAMPALA**

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DECLARATION

I **TUMWINE WILSON, Reg no. 1153-01032-03375** do therefore declare that this research on; A CRITICAL ANALYSIS OF THE ROLE OF THE DIRECTOR OF PUBLIC PROSECUTION (DPP) IN THE ADMINISTRATION OF CRIMINAL JUSTICE IN UGANDA” A CASE STUDY OF KAMPALA is my original work which has not been submitted to any other higher institution of learning for any of award.

Signature Tumwine Date 21/04/2017

APPROVAL

This is to certify that this research work by **TUMWINE WILSON, Reg No. 1153-01032 - 03375** has been written under my guidance and supervision and is now ready for submission for the award of a Diploma in law (DIL) of Kampala International University (KIU) with my approval.



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DEDICATION

This research paper is lovingly dedicated to my Grandfather Late Yonathan Kasharu and General Elly Tumwine who have been my constant source of inspiration

They have given me the drive and discipline to tackle any task with enthusiasm and determination. Without their love and support this research would not have been made possible.

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I highly appreciate the contributions rendered to me both morally and financially by my brother sisters and friends to ensure that this research is a success.

Special thanks to my supervisor Mr Iga Stephen, who I highly appreciate for the guidance, advice, encouragement, patience, care and moral support rendered to me during my research in particular this dissertation. In a special way also, I would like to acknowledge the contributions of all the staff members in the office of director of public prosecution for haring giving me all the information I need and also sacrificing their time and fore going to this work schedules and attend me.

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LIST OF CASES

1. Charles Harry Twakyira V Uganda (Criminal Appeal No.27 of 2003) [2005] UGSC 1 (3 August 2005);
2. RV Masiya 2007 (2) SACR 435 (CC)
3. Balikowa Nixon V Uganda Criminal Appeal No. 24 of 2013
4. Uganda V Umutoni HCT-00-ICD-CRSC-NO-003/2014
5. Uganda V Kunsemererwa Julius
6. Uganda V Thomas Kwoyelo Constitutional Appeal No. 1 of 2012.
7. Uganda V Kisebo Moses & 3 Ors (Criminal Session Case No. 22 of 2015)
8. Charles Harry Twagira V Attorney General, DPP & Kyomukama Sam (Civil Appeal No. 4 of 2007) Supreme court.
9. Woolmington V DPP (1935) AC

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1. The Constitution of the Republic of Uganda 1995, (as amended)
2. Prevention of Trafficking Persons Act No. 7 of 2009.
3. Penal Code Act Cap 120.
4. Magistrate's Courts Act Cap 16.
5. Anti-Corruption Act.
6. High Court (Anti-Corruption Division) Practice Directions 2009.
7. Criminal Procedure Code Act Cap 116.
8. Trial on Indictment Act Cap 23
9. The Evidence Act Cap 06

ACRONYMS

DPP	:	Director of Public Prosecutions
JLOS	:	Justice Law and Order Sector
SWAP	:	Sector Wide Approach
RSPs	:	Resident State Prosecutors
RSAs	:	Resident State Attorneys
UPS	:	Uganda Police Service
NETPL	:	Network of Public Interest Lawyers
LDC	:	Law Development Centre
SPSA	:	Senior Principle State Attorney
MCA	:	Magistrate's Court Act
PCA	:	Penal Code Act
TIA	:	Trial on Indictment Act
AG	:	Attorney General

CHAPTER ONE

BACKGROUND TO THE STUDY

1.0 Introduction and Background

1.1 Introduction.

In regard to Uganda's criminal history, this research tries to give a brief flash back on the criminal justice system and how different regimes have influenced the administration of criminal justice putting into place the progress of court process and protection and promotion of the rights of individuals. The researcher intends to look at how the criminal justice system is apparently conducted and how the custodian of this task handles the administration of justice in Uganda.

The researcher intends to look at the duties of the DPP in respect to the administration of criminal justice in Uganda, the challenges they face and the recommendations to the said topic under research.

Crime defined.

Is a violation of a law in which there is injury to the public or a member of the public and a term in jail or prison, and/or a fine as possible penalties¹. There is some sentiment for excluding from the "crime" category crimes without victims, such as consensual acts, or violations in which only the perpetrator is hurt or involved such as personal use of illegal drugs.

The Osborn's law Dictionary² defines crime as an act, default or conduct prejudicial to the community, the commission of which by law renders the person responsibly liable to punishment by fine or imprisonment through special proceedings instituted by the state.

A crime can mean a felony or misdemeanor. A felony is a capital offence whereas a misdemeanor is a minor offence.

The Penal Code Act³ defines a felony to mean an offence which is declared by law to be a felony or if not declared to be a misdemeanor, is punishable without proof of previous conviction, with death or with imprisonment for three years or more. .

¹ Crime and criminology text book by Rob White (Amazon.co.uk)

² Osborn's Concise Law Dictionary.

In the Ugandan criminal system, a person arrested of a criminal offence is taken police custody after which he is taken to police for trial. The detained person is presumed to be innocent until otherwise proven guilty or until that person has pleaded guilty as per the 1995 Constitution of the Republic of Uganda.⁴

Any criminal offence committed in society such as murder, theft, robbery, among others is all against the state. The Government entrusted the task of criminal investigations and prosecutions unto the DPP who takes over the criminal matters in courts of law. The court will always open up the case with Prosecution hearing.

In *S Vs Masiya*⁵, the High Court had emphasized the alleged inequality and discrimination engendered by the definition, and the resultant inadequate and discriminatory sentences. In oral argument, counsel for Mr. Masiya argued against the development only if the developed definition of rape was to apply to him. The DPP and *amici* substantially supported the judgment of the High Court, arguing that the definition perpetuates gender inequality and promotes discrimination. The DPP further contended that the definition perpetuates leniency in sentencing.⁶

In the case of *Charles Harry Twagira Vs Uganda*⁷ it was observed that the written arguments of counsel for the appellant are irrelevant to our decision. It was also observed by the learned Deputy Director of Public Prosecutions, that the appeal is incompetent. The appeal was accordingly dismissed reasons given⁸. This is a clear indicator that criminal justice administration is vested in the hands of the DPP.

1.2 History of Crime

1.2.1 Pre-colonial era.

Before Britain assumed control of Uganda, the judicial system consisted of a number of local authorities, tribal chiefs and kin group elders who worked primarily to enforce local

³ Cap 120 S.2(e)

⁴ Art. 28(3)(a)

⁵ CC 628/2005 south African High Court case.

⁴ 2007 (2) SACR 435 (CC).

⁵ (Criminal Appeal No.27 of 2003)) [2005] UGSC 14 (3 August 2005);

customary law. The elders handled cases of different nature such as rape, theft, murder, robbery among other offences⁹.

These offences were accorded different punishments for instance in the North, once one was caught stealing, he was taken to the chiefs and would be beaten and humiliated. In the East, the Bagisu could burn such culprits in public. In the west, the Bakonjjo could tie the offender in the forest for about 24 hours, in the following morning if found alive, that person could be pardoned but in most cases, wild animals could eat them up. In several jurisdictions in Uganda, the mode of administering criminal justice was quite different.¹⁰

1.2.2 Colonial era

When the British assumed control, there are a number of changes that were adopted to influence the judicial system in the country and these were pasted from the English system of administering justice. For instance, local courts were created to adjudicate over small claim disputes and minor offences. The Chiefs and other local leaders were granted powers to preside over disputes in society. Fatal and more serious felonies were taken to the courts they themselves presided over.

At independence, the resulting legal system consisted of the High Court, which heard cases involving murder, rape, treason and other crimes punishable by death or life imprisonment and subordinate Magistrates' Courts which tried cases punishable by a shorter terms of imprisonment, fines or whipping. The Magistrates' courts' decisions could be appealed to the High Court.

1.2.3 Post-colonial era

After gaining independence, criminal prosecutions were handled by the Attorney General. Immediately thereafter in 1962, the constitution¹¹ under S. 82(6) gave powers to parliament to enact Two Ordinances transferring power from the Attorney General to the DPP. These Ordinances were Numbers 9 and 38 of 1962. The Director of Public Prosecutions appointed by the president, prosecuted criminal cases. Under the Attorney General's direction, the DPP initiated and conducted criminal proceedings other than court martial. The DPP also could appoint a public prosecutor for a specific case. In some cases, the police official was the public prosecutor and the DPP reviewed and commented on the trial proceedings

⁹ <http://www.photius.com/countries/Uganda>

¹⁰ History of Uganda general and traditional knowledge on the customary attributes.

¹¹ Of 1962

The legal system virtually broke down during the 1970s in part because Amin undermined the judicial system when it attempted to oppose him. In March 1971, for instance when Amin granted the security forces the right to search and arrest, they implemented the decree to harass the political opponents. The courts were then blocked from rendering verdicts against security forces through a second decree granting government officials immunity from court prosecution. By absolving soldiers and police of any legal accountability, Amin unleashed a reign of terror on the civilian population that lasted for eight years.

The end of Amin regime brought no significant improvement in the criminal justice system. In an effort to reassert the rule of law, in 1984, the government prohibited the army from arresting civilian population. The army ignored the 1984 law, however, and continued to perpetrate crimes against the civilian population.

When Museveni came into power in 1986, he pledged to end the army tyranny and reform the country's criminal justice system. He succeeded in granting greater autonomy to the courts. Subsequently, legislation allowed the government to establish separate courts in these areas, authorized the army to arrest insurgents, permitted magistrates to suspend the rule of evidence to allow hearsay and uncorroborated evidence in the courtroom, and shifted the burden of proof from the accuser to the accused.¹²

The NRM regime enacted a new constitution¹³ whereby the rights of individuals are given value and importance attached to them. These rights are inherent and not granted by the state. Chapter IV stipulates these rights among which the rights of suspects/criminals are catered for.

For instance, under **Article 23(6)**¹⁴, states that "where a person is arrested in respect of a criminal offence, that person is entitled to apply to court to be released on bail" "where a person is convicted and sentenced to a term of imprisonment, any period he/she spends in lawful custody in respect of the offence before the completion of his or her trial." "The right to order of habeas corpus"

Article 28¹⁵ stipulates that "in the determination of civil rights and obligations, or any criminal charge, a person shall be entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law"

¹² Library of congress country studies and CIA world Fact book(<http://www.cia.gov/.../the-worldfactbook>)

¹³ Of the Republic of Uganda 1995

¹⁴ Supra

¹⁵ Supra

Director of Public Prosecutions¹⁶

Office of the Director of Public Prosecutions is an autonomous institution not subject to the direction or control of any person or authority. The exercise of DPP's authority and mandate should have regard to public interest, the interest of the administration of justice and the need to prevent abuse of legal process¹⁷.

The DPP is part of the Justice Law and Order Sector (JLOS) whose mission is to ensure that all people in Uganda live in a safe and just society. The JLOS is one of the sectors created by the Sector Wide Approach (SWAP), which was initiated by the Government in 1998 to guide planning and budgeting and foster more coherence and coordination among sectoral-related Government Ministries, Departments and Agencies (MDAs) in their pursuit of national development.

Historical Development of Office of the DPP.

In the first post -independence Uganda Constitution of 1962, the office of the DPP was created as an independent government body.

However, the 1967 amendment to the Uganda Constitution subjected the Office of the DPP to the direction and control of the Attorney General in all cases. From this period, the Office of the DPP functioned as a department within the Ministry of Justice¹⁸.

This position continued until the promulgation of the 1995 Constitution of the Republic of Uganda. Under **Article 120 of the 1995 Constitution** of the Republic of Uganda as amended, the autonomy of the Office of the DPP was restored to ensure that in the performance of his/her duties, the Office of the DPP is immune from any forms of interference.¹⁹

The DPP is appointed by the President who acts on the advice of the Public Service Commission with approval of Parliament²⁰.

The recurrent and development funding of the DPP is charged on the Consolidated Fund and the Directorate has, since the adoption of the SWAP operated within the JLOS framework.

¹⁶ [en.wikipedia.org/wiki/Director_of_Public...](http://en.wikipedia.org/wiki/Director_of_Public_Prosecutions)

¹⁷ <http://www.jlos.go.ug:442/index.php>

¹⁸ Dpp.co.ug/index.php?option

¹⁹ www.dpp.go.ug

²⁰ Art. 120(1) of the 1995 constitution of the Republic of Uganda.

To date, the Directorate continues to increase its geographical coverage of the country by opening up new offices, and deploying requisite human resources.

However, its non-wage recurrent and development budgets have not been substantially increased to match the expanded needs of the institutions and the demand for Office of the DPP's services across the country.

The DPP office is however not a body corporate, capable of suing and being sued in its entity name. It is just a criminal department meant to run justice on behalf of the government as there is no legislation operationalizing its power to sue or be sued as was held in the following case.

Charles Harry Twagira V Attorney General, DPP & Kyomukama Sam²¹

The DPP is a government department but it is not a body corporate with powers to sue and be sued. Article 150(2) of the constitution provides;-

Civil proceedings by or against the Government shall be instituted by or against the Attorney General; and all documents required to be served on the Government for the purpose of or in connection with those proceedings, shall be served on the Attorney General.

Therefore a suit against the DPP cannot be sustained and it is incompetent.

In addition, the Office of the DPP is present in most districts through the offices of the Resident State Attorneys (RSAs) and Resident State Prosecutors (RSPs), who represent the Directorate, and their mandate is to peruse files, offer legal advice and prosecute cases in their areas of jurisdiction. The objective of these field offices is to take prosecutorial services closer to the people – the users.

A person is not qualified to be appointed a Director of Public Prosecutions unless and until that person is qualified to be appointed a Judge of the High Court.²²

1.3 Statement of the Problem

Despite the existence of provisions in the Public Prosecutions Act²³, the Constitution²⁴, the Police Act, the Magistrates Act²⁵, Uganda prisons Act²⁶ and other legislations, the role of the DPP is compromised due to several interferences from other arms of the Government. It is

²¹(Civil Appeal No. 4 of 2007) Supreme court.

²² Art. 120(2) of the 1995 Constitution of the Republic of Uganda.

²³ 1990

²⁴ the Constitution of the Republic of Uganda 1995 as amended

²⁵ Cap

²⁶ 2006

not clear whether the DPP is an independent office in reality. Should the rights of suspects to fair hearing and other freedoms be prejudiced due to such inconveniences?

The researcher established the problem as stated and suggested ways through which such can be overcome to dispense justice without interference and influence from other authorities.

1.4 Methodology/Data collection Method.

In conducting this research, both secondary and primary methods were used to collect data.

1.4.1 Primary methods

a) Interview

During this research, data was collected by interviewing the Senior Principle Resident State Attorneys from different courts including Nakawa Court, Mengo Court, and High court Criminal Division Kampala, among other RSAs. The Researcher I also conducted an interview on the Prison wardens and the Police Officers to ascertain whether the Office of the DPP is carrying out its role effectively. This I helped him to find out how the rights of prisoners in and how they have been observed with regard to administration of Criminal justice in Uganda, and their recommendations on how obliterate the short comings.

b) Key Informants Interview.

In conducting this research, heads and members of various Non-Governmental Organizations like Human Rights Watch, Uganda, Foundation for Human Rights Initiative, JLOS among others were consulted to provide relevant information concerning the administration of Criminal justice in Uganda by the DPP.

c) Observation.

In carrying out this research, observation as a tool of data collection was employed in observing the facilities and conditions under which the Office of the DPP administers criminal justice in Uganda.

d) Data analysis.

In the course of the study, the researcher inspected, cleaned, transformed and modelled data with the goal of discovering useful information relating to dispensation of criminal justice by the Office of the DPP, suggesting conclusions and supporting decision making.

1.4.2 Secondary Methods.

a) Library search.

Various libraries were visited to find books relevant to this research. The libraries to visit include; Kampala International University the Iddi Bassajjabalaba Memorial Library, Makerere University Library, and Uganda Human Rights Commission Library, Kampala. These libraries have various Commission Reports that contain relevant data about Office of the DPP, textbooks, research papers, dissertations and case law reports which were relevant to this research especially for the theoretical part.

b) Internet search.

The internet and various web-sites were used to access information from various web sites like the Uganda Prisons Service web site, Office of the DPP website, and websites of foreign jurisdictions. These sites contain various annual reports that contain up to date data about Office of the DPP, reforms and other programs promoting the role of the DPP in disseminating justice in Uganda that would be otherwise hard to get directly.

1.5 Objectives and Significance

1.5.1 General objectives

What are the identical roles and duties of different stakeholders in ensuring the administration of Criminal justice in Uganda and how has these stakeholders helped to implement these duties in reality to enable the criminals realize their fundamental rights?

What is /are the essential frame work legislation used in promoting, protecting and ensuring good administration of criminal justice in Uganda?

1.5.2 Specific Objectives.

To discover role played by Office of the DPP in Uganda in the promotion of criminal justice in Uganda. Whether the existing laws are effective to enable parties in a case acquire criminal justice.

To analyze the effectiveness of the legal framework in regard to the administration of criminal justice in Uganda.

1.6 Significance of the Study.

The study is very important especially to developing countries like Uganda whose criminal history is horrible given the fact that the country has gone through a turmoil of politics.

1.6.1 Education purposes

The study will also boost the literature of Kampala International University Library (The Basajjabalaba Memorial Library) and be a good source of reference to potential future researchers in similar field of research.

Several institutions and literature lovers can access this research work to acquire information on the subject matter of the study.

1.7 Constraints of the Study

This research was intended to cover the Office of the Director of Public Prosecutions (RSAs), prisoners, ex-prisoners, Police, Magistrates, Clerks of court, but following the 2014 terrorists' threats in Kampala, the suspects were remanded to Luzira prison and it has proved a little challenging to access information as the country is under high intelligence syndrome. So access to prisoners and officers in prisons was restricted for security reasons. The researcher thus relied on information from ex-prisoners from Luzira, media reports corroborated by U.P.S officials. The Magistrates and other judicial officers are such busy to the extent that the researcher did not fully examine and interview some of them. The police were approachable but then they had little information in regard to the topic of study, though they were of great help.

1.8 Scope of the study

1.8.1 Content scope.

The study involved the analysis of the legal framework and institutional structure of the Office of the DPP in respect to administration of criminal justice in Uganda.

The research work also involved the role of the stake holders in the administration of criminal justice in Uganda, the challenges the researcher intended to solve and the recommendations thereto. The study also involved the review of literature.

1.8.2 Geographical scope

The researcher conducted his research in the area of Kampala District. This is because Kampala is a place where the Headquarters for the DPP are found. Besides, the selected courts are also found in the district of Kampala and are easily accessible. The fact that the Researcher is a student at Kampala International University, an institution in Kampala, makes it easy for him to conduct his research. Its accessibility cut costs to the researcher.

1.8.3 Time scope

The researcher chose the time frame between 2006 to date, for emphasis. However, this does not limit the researcher from including events that happened during the post-colonial era, a time of the constitutional history and development. The researcher also conducted the field study in a period of one month within which to analyze, finalize and compile the research.

1.9 Literature Review.

1.9.1 Lillian Tibatemwa Ekirikubinza

Lillian is known for her famous book “Homicides and Non fatal Assaults in Uganda”, a book that has spurred great literature on criminal management and justice in Uganda, East Africa and beyond. It mentions of the key essential elements in criminal justice, how the DPP is mandated to prosecute cases and how he takes the burden to investigate and proof the case against the accused beyond reasonable doubt. In her book, she uses principles embedded on decided cases to illustrate the roles of the DPP. For instance, on page 49, she explains the burden of proof with decided cases for example she cites the case of **Woolmington V DPP**²⁸ and **Mancini V DPP**²⁹, thus,

“it is of course correct that if the accused seeks to set up a defence of insanity, the burden of proving that defence rests solely upon him in that he must at least demonstrate the probability of what he seeks to prove. But if the plea is merely that the accused was by reason of intoxication incapable of forming the specific intention required to constitute murder ... the onus is not on the accused but on the DPP”

Lillian however did not deal with the loop holes and the challenges that the DPP faces like ineffective service delivery slowing down the progress of criminal justice, under funding that will promote delayed justice and failure of witnesses to testify due to high costs involved.

The researcher intends to bring out this kind of gap in the Office of the DPP and suggest possible recommendations thereto.

1.9.2A Hand Book for Magistrates³⁰

At page 200, the book explains the role of the DPP and criminal prosecutions. The book explains the power of the DPP to consent to charges. thus;- “since the middle of the 19th

²⁷ Homicides & Non-fatal Assaults in Uganda

²⁸ (1935)AC 462

²⁹ (1942) AC

³⁰ (Second Edition 2004) Published by the Law Development Centre

Century, it has become increasingly common for parliament to restrict the right of a private citizen to initiate the criminal prosecution by requiring the consent of the Attorney General, the Solicitor General or the DPP as the case may be before proceedings may be instituted.” Uganda inherited the principle that some prosecutions required the consent of a law officer and up until independence; certain criminal proceedings could only be instituted with the consent of the Attorney General. In view of the completely independent position given to the DPP by the independence Constitution, (S.82 (6))³¹, it was necessary for parliament to enact two Ordinances transferring power, grant or withhold consents from the Attorney General to the DPP. These Ordinances were Numbers 9 & 38 of 1962.

This book much as it explains some roles of the DPP, it does not exhaustively provide for the entire role of the DPP as the researcher has done in his research.

1.9.3 Professor LLJ Edwards³²

Is the Director of the Centre of Criminology at the University of Toronto? In his book, the law officers of the crown, he suggests that there are several offences that require the consent of the DPP and he mentions them at the Appendix pages to include sedition, incitement to violence, managing unlawful society, false claims by officials, among others. He emphasizes the need for independence of the office of the DPP especially in carrying out his duties and says that the government should give key support to the office since it is tasked with great load to handle. His book also does not exhaustively provide for the role of the DPP as enshrined in our Constitution of the Republic of Uganda³³

1.9.4 B.J. Odoki³⁴

Odoki B.J is a former Chief Justice of Uganda and his book was published to guide court users and the nation on criminal justice in Uganda. It gives the procedure of court process in criminal justice administration and the role of the DPP in dispensation of justice in Uganda.

In his book, he talks about the nature of criminal proceedings, criminal jurisdiction of courts, place of criminal trial, police investigations, inquests, prevention of offences, arrests, searches, extraditions, charges and indictments institution of criminal proceedings, pleas, bail, conduct of criminal proceedings, control over criminal proceedings, constitutional rights

³¹ 1962 Independent Constitution

³² The Law Officers of the Crown.

³³ 1995

³⁴ A Guide to Criminal Procedure in Uganda (Third Edition)

of an accused person, attendance of witnesses, among others, 90% of which is relevant to the research am conducting.

On page 115, he talks about the withdrawal of charges and states; - in any proceedings before a Magistrate's court, the prosecution may with the consent of the court or on the instructions of the DPP at any time before judgment is pronounced withdraw from the prosecution of any person³⁵

He explains the mode of institution of criminal proceedings under Chapter three of his book on page 73 i.e by public prosecution and private prosecution.

Under public prosecutions, he outlined two ways i.e. by a police officer bringing a person arrested with or without a warrant before a magistrate upon a charge or by a public prosecutor or a police officer laying a charge against a person before a magistrate and requesting the issue of a warrant or summons.

He observes that "both of these methods are used in practice. One is used when an accused person has been arrested by the police so that he/she can be taken before the magistrate with the charge laid against him/her." That the second is used where an accused person has not already been arrested and the process of the court is invoked to enable the police to apprehend the accused person or force him or her to appear in court.

His book concentrated more on the procedure than tackling deeper issues regarding the role of the DPP in dispensation of criminal justice in Uganda. The researcher intends in this research to critically expatiate and analyze the role of the DPP in details and also iron out the challenges the Directorate faces, the gaps to bridge and the recommendations thereof.

1.9.5 Criminal Procedure and Practices in Uganda³⁶

In order to deal with criminals, we need courts of law whose procedure must be regulated by the procedural law. In this vein, the procedure which governs the criminal proceedings and court proceedings before it decides a case has to be such as it fair, inspires confidence and at the route for the guilt. This textbook effectively prepares the reader for procedures applicable to a criminal case. The classic account of criminal litigation process is covered and the contents include; Jurisdiction, Extradition constitutional criminal procedure, Arrest, search and seizure Bail, Role of the DPP and police charges and indictments, pleas, Assessors, Trial,

³⁵ MCA Section 121)

³⁶ By Musa Sekaana; Published by Law Africa

sentencing, Appeals and Revision. The entire process is discussed in light of Ugandan Legislation and selected Ugandan East African case law.

Lawyers Judicial Officials and General Public concerned with criminal law administration will find this book very useful as reference to their work. Ssekaana Musa is currently a Lecturer at L.D.C

1.9.6 Media literature

1.9.6.1 High Court overrules Makindye Court on DPP takeover of Kayihura cases.³⁷

The landmark ruling delivered by Justice Mulangira means that the DPP no longer needs to make a formal application before a trial court in order to take over a private prosecuted criminal matter. The High court in Kampala ruled that the DPP has automatic powers to take over any criminal matter since he is the constitutional authority on all criminal prosecutions in Uganda.

Mulangira stressed that DPP is not subject to any control or direction of anybody in exercise of his constitutional functions and therefore not oblige to file a formal application if he wants to take over case filed under private prosecution.

Justice Mulangira Joseph also faulted Makindye Court Chief Magistrate Richard Mafabi decision of rejecting DPP's plea of taking over a torture case against the Inspector General of Police Gen. Kale Kayihura and seven other police officers.

On August 10th, Makindye Magistrates Court ordered the DPP to file a formal application if he wishes to take over a criminal case that had been filed against Gen. Kayihura and 7 other officers. This was after the DPP sent a letter to Makindye Magistrates court expressing interest in taking over private prosecutions

In his letter the DPP invoked Article 120 of the Constitution which mandates his office to take over any criminal proceedings instituted by any person in the court of law. The Magistrate adjourned the matter to 29th August to allow DPP file the formal application to take over the matter. The DPP made an application to Kampala High Court seeking to review

³⁷ By Charles Etukuri- New Vision Reporter and analyst.

the decision of Makindye Magistrates court which had denied him the right to take over the prosecution of the case.

Justice Mulangira ruled that the DPP is mandated to do take over any criminal matter under Article 120 (3) (5) of the constitution hence setting aside Magistrate Manabi's Order.

However, Justice Mulangira noted that even DPP had the powers to orally inform the presiding Magistrate of his interest in the case; DPP should not just take over the matter with the intention of withdrawing it but should fully prosecute it to its end.

Last month private lawyers under the Network of Public Interest Lawyers (NETPIL) instituted the proceedings against police officers in their individual capacities. The officers were accused of ordering the torture of opposition supporters between July 12th and 13th at Kalerwe Market as they escorted former Presidential Candidate Kiiza Besigye back home after his release from prison in bail and Busabala road on Entebbe road as he went to the party offices.

Those charged included General Kale Kayihura, James Ruhweza, who then headed operation in Kampala Metropolitan, Andrew Kagwa the then Regional Police commander of Kampala East, the then field force unit commander for Kampala metropolitan police Samuel Bamuzibire, Godfrey Kahebwa the then Kampala North Deputy Regional Police commander, and the Aron Baguma former Divisional police commander for Kampala central police station.

Three of the complainants however withdrew the case maintaining that they have been bribed to implicate General Kayihura, Andrew Sebitosi, Rogers Ddiba, and Joseph Kaddu were part of the five witnesses who swore affidavits in court claiming that they had been tortured by police. The three were also in the High court.

On Tuesday the government through the Minister of Internal Affairs General Jeje Odongo announced that General Kale Kayihura would not appear in court to answer criminal charges of torture brought against him by private lawyers.

The Minister said Kayihura was carrying out his constitutional duties and therefore prosecuting him amounted to prosecuting the Government. General Jeje Odongo called upon

general public to help participate in co-operation with and building of the police and be wary of forces that are bent on weakening the very strong institution of the police.

“Is he being charged as an individual or an institution?” General Odogo asked the media. He stressed, General Kayihura and other officers were performing a constitutional duty while in office. “We should be talking about the Inspector General of Police as Institution and not General Kale Kayihura as an individual. I think we need to make this distinction very clear Gen. Kale Kayihura and Inspector General of police”

1.9.6.2 New system to ease court case backlog³⁸.

The DPP has drafted a new case management system to reduce case backlog and ensure efficient management of cases, the DPP Justice Mike Chibita has said.

“In the new case management system, it will not be a requirement that case files recalled to the office of the DPP are transferred to Kampala but will be handled by particular assigned judicial officers, Justice Chibita said”.

The DPP made a remark while addressing leaders from Luwero, Nakasongola and Nakaseke Districts on Monday. He was responding to the remarks during the plenary discussions with various stakeholders on the difficulties faced within the judicial system. Mr. Chibita said an additional 80 state Attorneys had been recruited and posted countrywide to ease operation. He said the plea-bargain system, recently introduced by the Judiciary was another method devised to quicken the dispensation of criminal justice as it saves time and resources which would be spent on investigation and litigation.

The funds released to facilitate courts in transporting witnesses is not enough but the little sent should not be misused. We should not release criminals back to the community simply because we failed to transport witnesses to court. Without witnesses there will be no conviction. Criminals set free in such circumstances could escalate crime. Replying to comments about increased cases of lost police files at different investigation desks, he said police case files have neither legs to walk nor wings to fly. We cannot entertain this situation of files getting lost. Particular officers handling the files should be held responsible because files there are names of officers who handle them.³⁹

³⁸Daily Monitor Publication; Wednesday 25th March 2015, By Dan Wandera

³⁹www.monitor.co.ug/.../index.html

1.9.6.3 DPP takes over MP Akena's trespass case

The DPP has taken over the Buganda Road court case in which Lira municipality MP Jimmy Akena was charged with trespass at Uganda House.

Mr. Akena was charged alongside a group of 14 other people who include fellow legislators.

In a session before Magistrate Mary Kisakye, the matter was for plea taking and set to be prosecuted by private lawyers who are Mr. Mulema Mukasa and Mr. David Ssempala as hired by the complainant Mrs Milton Obote Foundation and M/s Uganda House Investments Ltd.

However, the Buganda Road court Resident State Attorney, Mr. Jonathan Nuwagaba weighed in stating that; "...the DPP has instructed me to appear and show cause / desire to take over prosecution of this matter".

Under Article 120 (3) (c) of the Constitution and the Magistrates' Courts' Act Cap 120, the DPP has a prerogative to take over such matters because there is need to make an in-depth investigation into the allegation and make an informed decision on how to proceed". Mr. Nuwagaba said.

Mr. Nuwagaba's submission follows an assertion from the defence lawyer, Mr. Augustine Kwesigire that his clients (accused) made a complaint to the DPP about the matter and he picked interest into it.

In reply, the lead private prosecutor said that there is a tendency by the DPP to frustrate complainants' cases once he takes over as he usually does not do enough research on matters.

"The law says that for the DPP to take over he must have done thorough investigation and research or alternatively, we should conjoin as prosecutors "he said.

Consequently, the trial magistrate Ms. Kisakye adjourned the matter to October 28 upon ruling that court has granted the DPP's request to take over prosecution. The magistrate was however, quick to note that the DPP has to prosecute the case in conjunction with the complainants' lawyers.

CHAPTER TWO

LEGAL AND INSTITUTIONAL FRAMEWORK OF THE DIRECTOR OF PUBLIC PROSECUTIONS IN UGANDA.

2.0 Introduction

Uganda has had a series of legislations developing from stage to stage depending on the historical developments and political regimes. There are several legal frameworks including international and local enactments that explain the establishments of the DPP in Uganda and these legislations can as well be discussed below. These legislations cover the establishment, role, objectives of the office of the DPP, appointments, procedure regarding trial by the DPP in courts of law, among other requirements.

The researcher intends in this chapter to elucidate and expound on the coverage of the DPP in these legislations in Uganda.

In this chapter therefore, the Researcher seeks to identify different legislations under national and international jurisdiction that expatiate on the role of the DPP in administration of justice in Uganda. The Researcher shall also cover the Institutional Alignment of the office of the DPP as regards operation and administration.

2.1 Local and National legal Framework.

2.1.1 The 1995 Constitution of the Republic of Uganda (as amended)

The 1995 constitution of the Republic of Uganda is the grand norm that holds the powers of all other legislations in Uganda. This Grand Norm is the supreme law of the land and any other law or custom that is inconsistent with it shall be rendered inconsistent to the extent of their inconsistency. This is stipulated under **Article 2** and states;

- (1) “The Constitution is the supreme law of Uganda and shall have bending force on all authorities and persons throughout Uganda.”
- (2) That if any other law or any custom is inconsistent with any of the provisions of this Constitution, the Constitution shall prevail and that other law or custom shall, to the extent of its inconsistency be void.

In criminal matters, the constitution under **Article 23 (3)**, the constitution suggests that a person arrested, restricted or detained shall be informed immediately in the language the

person understands of the reasons for the arrest, restriction or detention and of his or her right to a lawyer of his or her choice.

Article 23(4) a person arrested or detained –

- (a) For the purpose of bringing him or her in court in execution of an order of court; or
- (b) Upon reasonable suspicion of his or her having committed or being about to commit a criminal offence under the laws of Uganda,

Shall if not earlier released be brought to courts of law as soon as possible but in any case not later than forty eight hours from the time of his arrest.

Article 23(6) states that where a person is arrested in respect of a criminal offence-

- a) The person is entitled to apply to court to be released on bail, and the court may grant to that person bail on such conditions as court considers reasonable.
- b) In the case of an offence triable in High court

Article 120 establishes the office of the DPP

- 1) There shall be a Director of Public Prosecutions appointed by the president on the recommendation of the Public Service Commission and with the approval of Parliament.
- 2) A person is not qualified to be appointed to be a DPP unless he or she is qualified to be appointed to be appointed a Judge of the High court.
- 3) The Functions of the DPP are the following;-
 - a) To direct the police to investigate any information of criminal nature and to report to him or her expeditiously.
 - b) To institute criminal proceedings against any person or authority in any court with competent jurisdiction other than a court martial.
 - c) To take over and continue with any criminal proceedings instituted by any other person or authority.
 - d) To discontinue at any stage before judgment is delivered, any criminal proceedings to which this Article relates, instituted by himself or by herself or any other person or authority, except that the DPP shall not discontinue any proceedings commenced by another person or authority except with the consent of the court.

- 4) The functions conferred upon the DPP under clause (3) of the Article
 - a) May in the case of the functions under clause (3)(a), (b) and (c) of this article, be exercised by him or her in person or by officers authorized by him or her in accordance with general or specific instructions; and
 - b) Shall in the case of the functions under paragraph (d) of that clause be exercised by him or her exclusively?
- 5) In exercising his or her powers under this Article, the DPP shall have regard to the public interest of the administration of justice and the need to prevent abuse of legal process.
- 6) In the exercise of the functions conferred on him or her by this Article, the DPP shall not be subject to direction or control of any person or authority.
- 7) The DPP shall have the same terms and conditions of service as those of the High court Judge.

2.1.2 Criminal Procedure Code Act Cap 116.

This Act provides for the procedure through which criminal litigation shall follow in courts of law in Uganda. The Act has several specifications for the DPP and such provisions are as hereunder stipulated.

S. 28(4) provides for Notice of Appeal and states that-

Where the appellant is represented by an Advocate or the appeal is preferred by the DPP, the grounds of appeal shall include particulars of the matters of law or of fact in regard to which the court appealed from is alleged to have erred.

S.44 on dismissal of appeal.

1) The appellate court may dismiss an appeal for want of prosecution.

(b) If the appellant fails to take any necessary step in prosecuting his or her appeal within the time allowed and has not made an application for extension of time

S.46 provides for third appeals and states as follows-

Where an appeal emanates from a judgment of a magistrate GII, and either the accused person or the DPP has appealed to the Chief Magistrate, and from there to the High Court, either the accused or the DPP may lodge a third appeal to the Court of Appeal with the certificate of the High court that the matter raises a question of law of great public or general

importance as if the Court of Appeal should be heard, except that in such a third appeal by the DPP, the Court of Appeal shall only give a declaratory judgment.

S.54 Authority to sign on behalf of DPP.

Where an appeal or an application for revision is made by the DPP the notice or application, as the case may be, shall be signed by him or her or by such other person as he or she may authorize either generally or specifically for that purpose.

2.1.3 The High Court (Anti-Corruption Division) Practice Directions 2009

S.9 Prosecution of criminal cases in the Division by the Director of Public Prosecution.

Subject to S. 42 of the Magistrates Courts Act Cap 16, and S. 26 of the Trial on Indictment Act Prosecution of offences in this Division shall be initiated by the Director of Public Prosecutions, Inspector General of Police or any other person.

S. 13 Stipulates the court users committee.

The Division shall have a Court users committee.

2) The court users' committee shall comprise of –

e) The Director of Public Prosecutions or his/her representatives.

2.1.4 The Penal Code Act Cap 120

S.88 provides for the Consent of the Director of Public Prosecutions.

A person shall not be prosecuted for an offence under S.85, 86, or 87 without the written consent of the Director of Public Prosecutions.

S. 151 provides for the Consent to prosecution.

No prosecution for an offence under S.149 shall be commenced without the sanction of the DPP.

S.274 provides for the Application of the DPP's power under certain sections of the Prevention of Corruption Act.

The powers of the DPP under S.16 to S.20 of the **Prevention of Corruption Act** shall, with the necessary modifications, apply to offences under S.261, 268, 269, and as they apply to

offences under that Act, and the penalties prescribed in the applied sections shall apply accordingly.

Under S. 275(5), the DPP shall ensure that any order issued under S. 1 is served on the banker, or accused person or suspected person and any other person to whom the order relates.

2.1.5 The Magistrates Courts Act

⁴⁰S.42 On institution of criminal proceedings

(1) Criminal proceedings may be instituted in one of the following ways-

b) By a public prosecutor or a police officer laying a charge against a person before a magistrate and requesting the issue of a warrant or a summons.

S.43 Control over private prosecutions.

1) Where criminal proceedings have been instituted by a private person other than a public prosecutor, or a police officer under section 42, the DPP may-

- a) Take over and continue the conduct of those proceeding at any stage before the conclusion of the proceedings;
- b) Discontinue the prosecution of the proceedings at any stage of ;an inquiry or trial before a Magistrate's Court; and
- c) Require such person in relation to those proceedings-
 - i. To give him or her all reasonable information and assistance; and
 - ii. To furnish him or her with any documents or other matters and things in the person's possession or under his or her control.

2) Where the prosecution of any proceedings has been discontinued under subsection (1) (b), section 121 shall apply as if there had been a withdrawal from the prosecution under that section.

S. 121 of the Act in relation to the above states that" in any proceedings before a magistrate's court the prosecutor may, with the consent of the court or on the instructions of the DPP at

⁴⁰Cap 16 laws of Uganda

any time before judgment is pronounced, withdrawal from the prosecution of any person; and upon that withdrawal-”

a) if it is made before the accused person is called to take his or her defense, he or she shall be discharged but the discharge of an accused person shall not operate as a bar to subsequent proceedings against him or her on account of the same facts.

b) If it is made after the accused person is called upon to make his or her defense, he or she shall be acquitted.

S.114. Procedure when accused person certified as capable of making a defence.

(1) If any person confined in a mental hospital or other place of custody under S.133 is found by the medical officer in charge of the mental hospital or place to be capable of making his or her defence, the medical officer shall forthwith forward a certificate to that effect to the DPP.

(2) The DPP shall thereupon order then inform the court which recorded the finding against the person whether it is the intention of the state that the proceedings against the person shall continue or otherwise.

S. 167 Power to transfer case to superior court.

If a person is charged with an offence before a magistrate’s court and it appears to the DPP at any stage of the proceedings that the case is one that ought to be tried by a court superior to that magistrate’s court, the magistrate shall, on application made by or on behalf of the DPP before the close of the case for the prosecution, stop further proceedings and remand the accused person in custody to appear before a superior court.

S.168 Committal for trial by the High court.

(1) When a person is charged by a magistrate’s court with an offence to be tried in the High court, the DPP shall file in the magistrate’s court an indictment and a summary of the case signed by him or her or by an officer authorized by him or her in the behalf acting in accordance with his or her general or special instructions.

(2) When a person charged with an offence tried by the High court appears before a magistrate and the DPP has complied with subsection (1), the magistrate shall-

a) Give the accused person a copy of the indictment together with the summery of the case,

b) Read out the indictment together with the summery of the case and explain to the accused person the nature of the accusation against him or her in a language he or she understands and inform him or her that he or she is not required to plead to the indictment.

c) Commit the accused person for trial in the High court and transmit to the registrar of the High court a copy of the indictment and summery of the case.

S.169. The DPP to determine offences to be committed to the High court.

Subject to S.168 for the avoidance of doubt, it shall be within the direction of the DPP which offences are to be proceeded with under S.168 for trial before the High court or to be tried by the magistrate's court; and trial by the High court for an offence committed to that court under S.168 shall not be refused merely on grounds that the magistrate's court has jurisdiction to try that offence.

S.204, Criminal appeals.

(5) Where an accused person has been acquitted by the magistrate's court, the DPP may appeal or sanction an appeal in such manner as may be sanctioned by the minister by statutory instrument on the ground that the acquittal is erroneous in law.

S.206 Reservation of question of law

(1) A magistrate's court presided over by the Chief magistrate or by a magistrate grade I, exercising criminal jurisdiction may, and shall upon the application of the DPP at any stage of the proceedings before judgment, reserve the question of law arising during the trial of any accused person for the opinion of the High court

S. 223 Power to appoint prosecutors.

(1) The DPP may appoint generally or in any case, or for any specified class of cases, in any local area, one or more persons to be called public prosecutors.

(2) The DPP by writing under his or her hand may appoint any Advocate or any person employed in the public service to be a public prosecutor for the purpose of any case or cases.

(3) Every public prosecutor shall be subject to express directions of the DPP.

S.224 Power of prosecutors.

A public prosecutor may appear and plead without any written authority before any court in which any case of which he or she has charge is under trial or appeal; and if any private person instructs an advocate to prosecute in any such case, the public prosecutor may conduct the prosecution, and the advocate so instructed shall act in the case under his or her directions.

S. 225 Obtaining copies or originals of documents in custody of bank.

(1) For the purposes of any investigation of a crime, a bank manager or any officer of the bank authorized by the bank, shall, upon request in writing by the DPP or a police officer not below the rank of inspector, authorized in writing by the DPP, apply without delay to the DPP or the police officer, a copy or copies of any documents in the custody of the bank against a receipt signed by the DPP or the police officer, and the receipt shall be countersigned by the bank manager.

(2) Where it is necessary that the original of any copy in the custody of the bank should be inspected, or that tests should be carried out on it, the DPP or the police officer not below the rank of Inspector, authorized in writing by the DPP may apply to the bank for the original; and the bank manager or the official of the bank authorized by the bank shall deliver the original to the DPP or the police officer against a receipt signed by the DPP or the police officer.

(3) When the original of a document in a bank is to be delivered under subsection (2), the DPP or the police officer referred to in that subsection shall give to the bank manager a photocopy of the original certified by the DPP or the police officer and the bank manager or authorized officer to be a certified true copy of the original.

(5) A police officer acting under this section shall be responsible to the DPP for anything to be done by that officer under this section.

S.226 Permission to conduct prosecution.

(1) Any magistrate trying any case may permit the prosecution to be conducted by any person but no person other than a public prosecutor or other officer generally or specially authorized by the DPP for that purpose shall be entitled to do so without permission.

2.1.6 The Evidence Act Cap 06.

Evidence is the means to by which any alleged fact or matter the truth of which is submitted to investigations is proved. The Evidence Act lays down rules governing the production of evidence in court to prove facts in dispute.

The Evidence Act contains provisions which prescribe and govern the following:-

- a) What facts may or may not be proved in a particular case. This refers generally to relevance of evidence.
- b) What sort of evidence may be given of a fact which has to be proved? This is concerned generally with the types of evidence and their admissibility.
- c) By whom and in what manner may the evidence be proved? This matter concerns the burden of proof which at most times by statutory implication lies upon the prosecution.

The law of evidence plays a major part in the conduct of trial because the prosecutor has to produce sufficient evidence to prove the case against the accused person beyond reasonable doubt.

The Evidence Act contains provisions pertaining to the following matters.

- a) Relevancy and admissibility of facts,
- b) Facts which need not be proved, judicial notice and presumptions,
- c) Admissions and confessions,
- d) Oral and documentary evidence,
- e) Burden of proof,
- f) Witnesses and their examination.

2.1.7 The Police Act Cap 303

The Police Act, made in 1944 is the law which governs the constitution, administration, organization, discipline and functions of the Police Force. It has provisions which are relevant to criminal procedure especially in **Part V** sections **21 to 31** which lay down the powers, duties and privileges of the Police officers.

The Act gives police officers powers to detect and bring offender to justice, to prevent commission of offences and to execute promptly and obey all orders issued by competent

authorities. Police officers are also given powers to search, powers to regulate assemblies, power to institute criminal proceedings and power to dispose of unclaimed property.

2.1.8 The Trial on Indictments Act Cap 23

The Trial on Indictment Act was first made in 1971 as Decree 26 of 1971. An indictment is a charge or accusation filed in the High court. A trial on indictment is therefore trial on a charge before the High court. The Act lays down rules governing procedure before the High court. It contains mainly the following.

- a) Rules governing the institution of criminal cases before the High court.
- b) Procedure for conducting hearings before the High court.
- c) Provisions relating to sentences and orders imposed by the High court.
- d) Provisions for criminal appeals to the Court of Appeal for Uganda and Supreme Court of Uganda.

2.2 International instruments and treaties

2.2.1 The Rome Statute⁴¹

The Rome Statute of the International Criminal Court is the treaty that established the ICC. It was adopted at a Diplomatic conference in Rome on 17th July 1998 and it entered into force on 1st July 2002. The Statute establishes the court's Jurisdiction, functions and structure.

The Rome statute established four core international crimes: genocide, crimes against humanity, war crimes, and the crimes of aggression. Under the Rome Statute, the ICC can only investigate and prosecute the four core crimes in situations where the states are unable or unwilling to do so themselves. The court has jurisdiction over crimes only if they are committed in the territory of a state party or if they are committed by a national of a state party; an exception to this rule is that the ICC may also have jurisdiction over crimes if its jurisdiction is authorized by United Nations Security Council.

The Rome Statute is the result of multiple attempts for the creation of a super national and international tribunal. Uganda as a country is a signatory to this statute and subscribes to its services.

Where there is commission of heinous offences such as war crimes, crimes against humanity, among other crimes specified in the Rome Statute, the DPP may surrender file and the

⁴¹ Drafted in 1998

exhibits or evidence to the ICC for further management of such criminal matter. This, however, is only for instances where the state wishes that such offender be tried and prosecuted in the ICC, otherwise, the Statute provides for room for the country itself to try such crimes except for instances where the Court may order that the matter be tried by the ICC as it attracts international attention and concern.

2.3 Institutional alignment and framework of the DPP

The Directorate of Public Prosecutions is headed by the Director of Public Prosecutions who is the Chief Executive. The Director is assisted by two Deputies; one in charge of Prosecutions and Quality Assurance and the other is in charge of Management Support Services.

The Directorate is organized on the basis of Five Departments which shoulder varied but have complementary functions and responsibilities. The Departments are;-

- a) Prosecutions,
- b) Inspection,
- c) Research and Quality Assurance,
- d) International Affairs and Field operations,
- e) Finance and Administration,
- f) Records, information and Computer Services.

All the above Departments are headed by Commissioners. In addition, the office of the DPP is present in most Districts through the offices of the Resident State Attorneys and Resident State Prosecutors, who represent the Directorate, and their mandate is to peruse files, offer legal advice and prosecute cases in their areas of jurisdiction. The objective of these field offices is to take prosecutorial services to the people,-the users.

CHAPTER THREE

THE ROLE OF THE DIRECTOR OF PUBLIC PROSECUTIONS IN THE ADMINISTRATION OF CRIMINAL JUSTICE IN UGANDA.

3.0 Introduction.

The prosecution service is a critical area in the administration of criminal justice and it is of great public concern. The efficiency and effectiveness of the prosecution service will have a direct impact on public safety and security.

We need to improve the quality of the prosecution service to deliver in order to answer to the expectations of the public. The public want to be protected from crime and criminals. When an offence is committed the public expectation is that the criminals should be traced, prosecuted without delay and convicted. They should serve their sentences. The hope is that such efficient law enforcement would deter future crime.

The prosecution service in Uganda unlike, other prosecution services, has been under public pressure to improve its performance and it is on this ground that the Researcher critically seeks to analyze the role of the DPP

In an interview with several DPP officers, the Role, duties and the mandate of the DPP was critically analyzed as hereunder. Some functions are specifically referred to from the legislations in Uganda and case law.

3.1 Role of the Director of Public Prosecutions.

In Uganda the prosecution service was originally a department of the Ministry of Justice and Constitutional Affairs. The DPP was one of the Directors in the Ministry heading the Prosecution Department. The DPP was not independent. This lack of independence was a handicap to the prosecution service.

Article 120(5) of our 1995 Constitution resolved this. The director of Public Prosecutions is an independent institution:-

In the exercise of his/her functions “the Director of Public Prosecutions shall not be subject to the direction or control of any person or authority.”

It is important for a prosecutor to be independent and work professionally without the control, direction or interference by any person or institution. That is the only way prosecution decisions will be free, fair and credible. It has helped in the building of public

confidence in decisions of the Institution. We also work hard to assert our independence and work professionally.

In this regard, the DPP shall ensure that the Directorate is free from the influence of other persons or authority in order to exercise his or her duties maximally and effectively. otherwise, this might prejudice the progress of the administration of criminal justice in Uganda.

The following are the roles of the DPP

3.1.1 Directing investigations.

Article 120(3) (a) gives the powers to the DPP to direct investigations. Even if the police conducts investigations, it is the DPP who supervises, directs and guides the conduct of the investigations.

In serious offences the DPP starts what is called prosecution led investigations. The DPP started prosecution in serious fraud and corruption cases and it is now extended to all other offences.

At the commencement of investigation of a serious offence a team led by a senior prosecutor from the DPP's office is set up. It will be composed of police investigators and other relevant professional depending on the nature of the case. The other experts could be Auditors, handwriting experts, ballistics experts, engineers, medical officers or any other expert relevant to the case. The team will together develop a work plan for the investigation of the case. They agree on what they are looking for and on how to proceed. They then move to the field and carry out the investigations.

The evidence thus collected is analyzed by the whole team and the leading prosecutor. This may lead to further investigations. When the investigations are concluded the whole file is discussed with a supervisor, more senior prosecutor or even with the DPP depending on the seriousness of the case.

The case will proceed to court through the process with high probability of conviction.

The conviction rate for cases the DPP has conducted through this process has been over 90%.⁴²

⁴² www.jlos.org.ug/.../http

The challenge to this kind of work is funding says Akuor Joan, an SPSA in the office of the DPP at Kampala. Investigations need a lot of movements especially visiting the scene of crime, visiting the principle witnesses, facilitating the witnesses, buying the gadgets used in the field and several other costs involved. Ms. Joan said that financial constraints block the way of criminal justice. She appealed to the government to increase funding to the DPP office to facilitate investigations.

3.1.2 Institute Criminal Proceedings against any person or authority

The Constitution of the Republic of Uganda⁴⁴ stipulates it clearly the duty of the DPP as one of instituting criminal proceedings against any person or authority in any court with competent jurisdiction other than a court martial. Article 120(3) (b) of the 1995 Constitution of the laws of Uganda gives the DPP powers to commence criminal proceedings. The decision to prosecute or to take an accused to court is taken by the DPP.

Under Section 42(1)⁴⁵, criminal proceedings may be instituted by the DPP or a police officer laying a charge against a person before a magistrate and requesting the issue of a warrant or a summons. It is therefore the duty of the DPP to ensure all criminal proceedings are instituted and initiated by him and management of such files/cases be handled by him/her.

In execution of this mandate, Ms. Akuor Joan said that they face a problem of specificity in charges or indictments against accused persons. She said that there are several charges preferred against the accused persons and in the run of trial, court amends them after defense challenging the charges. This, she says, is a challenge as prosecution has to start looking for other pieces of evidence to support the charges against the accused person. She also added that there are families especially of the victims that try to protect the accused persons especially after negotiations and they lose interest in the case. This, she says, cannot give chance to the DPP to administer criminal justice. The culprits are left hanging unpunished in society and that poses great danger to the society. Crime increases and in the long run, the populace and government slaps blame on the DPP as being reluctant.

3.1.3 Take over and continuing criminal proceedings.

The DPP is mandated under the Constitution of Uganda 1995⁴⁶ to take over criminal proceedings and also continue any criminal proceedings that may have merit to the interest of

⁴³ Article 120(3)(b)

⁴⁴ Supra

⁴⁵ Of the Magistrate's Courts Act cap 16,

⁴⁶ Article 120 (3)(c)

the public. It is the role of the DPP to ensure that the criminal procedure is followed to bring justice to the parties before court.

Section 42 of the Magistrate's Court Act Cap 16 allows any other person to commence private prosecution. In such a case, the DPP can take over from that private person and continue with the prosecution of such a case.

Section 43 (1)⁴⁷ provides for the control of public prosecutions thus:-

Where criminal proceedings have been instituted by a person other than a public prosecutor or a police officer under Section 42, the DPP may:-

- a) Take over and continue the conduct of those proceedings at any stage before the conclusion of the proceedings.

For instance,

The recent incident that happened between police and the opposition FDC supporters brought a land mark of events in the criminal history of justice in Uganda. The police brutally battered FDC supporters who were escorting their party boss after being granted bail on charges of Treason at the High court Criminal Division in Kampala. In different areas, the supporters were seriously battered and they resorted to court.

The private lawyers initiated proceedings against the police boss, Gen. Kale Kayihura and other 2 police officers in Makindye magistrate's court. This matter was before H/W Mafabi (now deceased). The Late Mafabi summoned the Police officers to appear in court and answer charges brought against them but specifically Afande Kayihura deliberately defied the court order.

In this regard, the DPP resolved to take over the matter but the Trial Magistrate asked him to put in an application seeking leave to prosecute the said criminal case in court.

A land mark ruling was made by Hon. Justice Joseph Mulangira at High court Criminal Division that the DPP is mandated by the constitution of the Republic of Uganda to take over any private criminal proceedings against any person or authority⁴⁸ and therefore, the DPP is not obliged to make a written application in order to take over criminal proceedings against anyone. This ruling has brought a new look and this may improve on the administration of

⁴⁷ Magistrate's Courts Act Cap 16

⁴⁸ Article 120(3)(c)

criminal justice in Uganda. This is because the time wasted in making application seeking leave to appear and defend can now be used to embark on other processes.

The researcher however under this role found out that the DPP sometimes even when fully mandated by the constitution to take over prosecution, there are several cases from police that have not taken course in the criminal adjudication thus, accused persons go unpunished and the society suffers.

In an interactive dialogue with Joan Akuo, a Senior Principle State Attorney in the office of the DPP at Kampala, she said some of the pending files that they have not taken over have no witnesses to adduce evidence and others have exhibits and other evidences lost in the hands of police. She cited a scenario of the kind at Buganda Road Court where the prosecution completely failed to sustain charges against the accused due to lack of prosecution witnesses to pin the culprits and ensure justice. Joan said this is greatly a barrier that hinders their work and it so poses a great challenge.

3.1.4 Discontinue any criminal proceedings against any person or authority.

Article 120 (3)(d) of the Constitution of the Republic of Uganda 1995 thereof allows the DPP to withdraw at any time before judgment is delivered any criminal proceedings or matter from the court. This power is exercised exclusively by the DPP. When the DPP withdraws any matter from court, it is called **NolleProsequere** in the High Court, and in the Magistrate's court, it is called **withdraw of charges**. Most of the cases the DPP withdraws are ones that lack merit due to lack of sufficient evidence to sustain charges against the accused persons.

Section 43(1) (b)⁴⁹

The DPP is mandated under the Constitution⁵⁰ and the Magistrate's Courts Act Cap 16 to discontinue any criminal proceedings instituted by any private person or authority against any person. This is when from the study of the case at hand by the DPP, no merit is seen and the interest of the public is not exposed anywhere in the course. The DPP may also find out that the case against the accused person is frivolous and vexatious and ill-driven by the private prosecution. To some extent, the political situation may drive private prosecutors to institute proceedings in court to sabotage their rivals. In the event that the DPP comes across this prosecution, the only remedy is to terminate or discontinue the proceedings.

⁴⁹ Of the Magistrate's Courts Act Cap 16

⁵⁰ Article 120(1)(c)

However, the challenge under this role is that the DPP may act to discontinue the proceedings under coercion or influence by the government officials especially those under political arena. This may hinder the dispensation of criminal justice in Uganda. The Researcher intends to analyze this kind of loophole in the DPP office.

3.1.5 Control of Prosecutions/Relationship with the Police⁵¹

The prosecution of any criminal case is greatly dependent on the investigation of the case. Cases in our system are initially reported to police by the public. Police conducts the investigations. Originally police would investigate and even prefer charges in court.

The DPP would be involved after the charges are already preferred in court. The Lawyers (State Attorneys) would conduct prosecutions in serious offences in the High Court and the appeal courts. Prosecutions in Magistrates courts would mainly be conducted by police prosecutors. The Office of the DPP has changed this position. The DPP increased the number of lawyers in the office of the Director of Public Prosecutions in different parts of the country. Currently, Police conducts investigations and police files are referred to the office of Director of Public Prosecutions before the criminal cases are filed in court. The DPP's office peruses the files and determines whether or not there is sufficient evidence. The office will determine whether the case should at this stage be filed in court or it requires further investigation. Our office may direct further investigations before charges are preferred. If the evidence does not justify criminal charges then our office may direct for the file to be closed. The arrangement of involving the DPP's office before prosecution commences has helped in ensuring that only deserving cases go to court. The people who have not committed any offence or against whom there is no evidence should never be charged in court. This is a great contribution by the prosecution service in the area of protection of human rights of those against whom there may be suspicion without evidence to justify prosecution. This has also reduced suits against the state for malicious prosecution and saves government a lot of money. Police will not fix people because they are the usual suspected offenders nor will people with grudges abuse the court process by initiating unjustified prosecutions. The prosecution of cases by well qualified prosecutors from the DPP's office has increased the rate of convictions.

3.1.6 Consenting to the charges

To consent is to authorize and the law provides that no prosecution shall commence without the consent of the DPP for instance, Sedition under Section 40 and 43 (2)⁵² and Section 52 on

⁵¹Article 120(3)(a) of the Constitution 1995 as amended.

incitement of Violence. There are also other several offences that warrant the consent of the DPP before they can be commenced in prosecution.

The DPP is mandated to consent to charges against the accused persons. The DPP is supposed to ensure that the charges are not duplex and frivolous. He is then supposed to ensure that he appends his signature and send the file for further management. The DPP should also ensure that the charges against the accused are the right charges that can be sustained by evidence to be adduced.

The SPSA, Ms. Okuor Jane when interviewed said that the challenge they face as prosecutors in this area is the fact that the witnesses change the whole story to the counts against the accused person. The prosecution witnesses may give a different account of what happened and yet the charges against the accused person read a different count that needs different proof other than what the witnesses are giving. By so doing, the DPP finds it hard to sustain the charges. Much as he is supposed to consent to the charges, scenarios of this kind real derail their performance. The DPP therefore sometimes delays to consent to the charges in a bid to establish the truth of the matter which sometimes becomes hard for him/her.

3.1.7 Perusal of police files.

As the DPP is mandated to direct investigations under Article 120(3) (b)⁵³, it is therefore his duty to peruse or read through the police files to ascertain whether there is sufficient cause to sustain the charges against the accused person. It is through perusal of police files that the DPP takes a decision on whether to prosecute or not.

The DPP is mandated to peruse through police files, establish the charges against the accused persons and see if they are the right ones. Sometimes, the police hurry to slap charges against the suspects in their custody. This happens due to their little knowledge of the law, although they are the custodians of the law, most of the police officers are not deeply knowledgeable about the law. The DPP is a senior officer and a great custodian in the field of the law and is one who can truly tell which charges can stand against the accused persons. In that regard, the DPP is supposed to peruse police files and ensure the police statements and charges are right and true to the standard of the penal code Act.

⁵² Penal Code Act Cap 120, laws of Uganda.

⁵³ 1995 constitution of the Republic of Uganda

The DPP's office peruses the files and determines whether or not there is sufficient evidence. The office will determine whether the case should at this stage be filed in court or it requires further investigation. Our office may direct further investigations before charges are preferred. If the evidence does not justify criminal charges then our office may direct for the file to be closed. The arrangement of involving the DPP's office before prosecution commences has helped in ensuring that only deserving cases go to court. The people who have not committed any offence or against whom there is no evidence should never be charged in court. This is a great contribution by the prosecution service in the area of protection of human rights of those against whom there may be suspicion without evidence to justify prosecution. This has also reduced suits against the state for malicious prosecution and saves government a lot of money. Police will not fix people because they are the usual suspected offenders nor will people with grudges abuse the court process by initiating unjustified prosecutions. The prosecution of cases by well qualified prosecutors from the DPP's office has increased the rate of convictions.

Most prosecutors however have been reluctant in perusing police files and this has led to dropping of several charges against the accused persons especially when the Defense counsel objects to the charges against the accused person. Ms. Jane Our, a Senior Principle State Attorney said that several prosecutors sometime fail to peruse thoroughly through police files because they have not enough time to do so. The staff is insufficient or the big work at the Office of the DPP and they end up doing sketchy work, she said.

3.1.8 Preparing committal papers.

In all capital offences, the accused person has to appear charged on a charge sheet before a magistrate's court where charges are read and explained but no plea is taken for want of jurisdiction. **Section 1⁵⁴, Section 168⁵⁵ and Section 169⁵⁶** are read together to explain that an accused person shall not be taken to High Court until committed for trial. When the investigations are complete, he prepares an indictment and summary of the case which are read and given to the accused person in the Magistrate's Court and then the accused is committed for trial in the High Court.

⁵⁴ Of the Trial on Indictment Act

⁵⁵ Of the Magistrate's Courts Act Cap 16

⁵⁶ MCA cap 16

The DPP has a role to play in ensuring that this accused person is prepared to appear before the high court for trial since it is the high court that has original jurisdiction to try all cases of capital nature. The DPP prepares an indictment and ensures that the counts therein are supported by the evidence before him and then also conduct committal proceedings in the Magistrate's court. After all the papers necessary are prepared and evidence collected, the DPP can now direct the Magistrate's court to commit the accused person to the High court for trial. At the high court, the DPP also ensures that he conducts the prosecution trial until justice is finally delivered.

The challenge in this role is that there is inordinate delay in production of the accused person before court for committal. This is due to the fact that police and the DPP investigators take long to collect evidence and also array witnesses in the High court to ensure the charges against the accused stand. In the long run, some of the exhibits in custody of the police is lost either by way of carelessness or bribes. Some police officers take bribes to hide evidence/exhibits and this delays the process of committal since the DPP wants to be sure that the charges against the accused are supported by some direct evidence. Once no evidence or little evidence is there to pin the culprits/offenders, the process of committal may inordinately delay hence delaying justice. A case in point is the committal proceedings at Nakawa magistrate's court for Matthew Kanyamunyu who was charged of murdering Kenneth.

The Researcher observed the loophole in this kind of procedure in that it limits the operation of Article 28 of the 1995 constitution about speedy hearing in courts of law.

3.1.9 Sanctioning of charges

Sanctioning is defined⁵⁷ to mean giving official approval or permission for an action. It may also mean an official order for taking action. The DPP is mandated to sanction charges against the accused persons. The DPP has capacity to slap any charges against persons suspected of having committed any crime in society. The DPP officially gives approval to the charges against the accused especially after the police file has been produced to him. The DPP however should ensure that the charges stand merit and not dropped.

⁵⁷ Under the Macmillan English Dictionary for Advanced Learners, New Edition

The challenge however under this role is that the victims in some cases such as rape victims are not ready to give evidence against the accused persons in court. They are traumatized and feel they will lose respect in society and wish to keep silent about the act. This gives hard time to the DPP to sanction charges against the accused person.

3.1.10 Collaboration, Appointing and Training of Investigators and Prosecutors.

Today's prosecutors and investigators are confronted with handling modern criminals. In economic crime and corruption cases the offenders are mainly very well educated and professional people. They plan the offences they commit and plan cover-ups and escape routes for themselves so that they are not caught for the offences they commit.

The DPP is duty bound to constantly appoint and train out investigators and prosecutors. Their training has to be renewed. One strategy the DPP has developed is to use prosecutors in the training of investigators.⁵⁸

Police conducts induction courses for fresh CID officers. The DPP office participates in these courses. The prosecutors participate also in training for senior and middle cadre investigators in various in-service courses for police investigators.

The DPP uses decided cases to illustrate common errors in police investigations and guide police to improve on their investigative skills. At such training we also cover new legislation and other areas in which the DPP has issues with police investigations. Apart from training the DPP also has strived to improve communication and co-ordination with police investigators.

The Office has a DPP/CID Co-ordination committee chaired by an Assistant DPP which sits regularly to discuss operations and policy issues with CID for continued interaction. The DPP has an annual Top Management Workshop for CID and DPP top leadership to discuss policy and management issues between the two institutions.

Improvements in the investigation of cases resulting from the training programmes and increased collaboration with police have been noted. Well investigated cases are a useful tool for prosecutors to have successful prosecutions in court.

⁵⁸ Statement made by one of the officials in DPP office called Herbert Buteera

It is important therefore for the DPP to close the gap between investigators and prosecutors. There should be increased co-operation and collaboration. It is important for investigators and prosecutors to work together as teams to achieve the common goal of fighting crime.

3.1.11 Supervision and inspections

A National prosecuting authority has the challenge of ensuring that efficient and effective prosecutions are conducted throughout the country. The work at headquarters should be as efficient and effective as it is at the regional and district offices if the national impact on prosecution has to be felt throughout the country. It is necessary to spread prosecution services to the people through the establishment of Regional and District offices. We have set up and strengthened our inspection unit to regularly carry out inspections of our offices throughout the country for purposes of quality assurance in prosecutions.

The Directorate uses senior prosecutors who go to the different stations on inspections. They talk to prosecutors about their work and practical problems they may have. They pick sample files and study them. Part of their work on inspection is to train and mentor the junior staff by pointing out errors and areas that need improvement. This is both in prosecution, administration and management.

The inspectors visit the judicial officers in the area. They visit police officers and prisons officers, probation officers as well as other stakeholders to find out how our regional officers are rated in their work. The inspectors' reports are discussed by top management at our headquarters. These inspections reports give us a feedback so that the DPP plans improvement where he/she finds weaknesses.

3.2 Conclusion

Prosecution is critical in the proper administration of criminal justice. It has to be continuously assessed to ensure that it is efficient and effective. The improvements in prosecutions have to be linked to improvements in the other criminal justice institutions. There is need therefore for increased coordination and collaboration between the prosecution service and other organs in the criminal justice system. The public should be sensitized to appreciate the improvements that are effected. The process of improving the prosecution service is a continuous process. The duties and mandate of the DPP is quite broad and in performance of such duties, the institution should be free from interference from other organs or institutions in order to enable the DPP administer criminal justice without bias.

CHAPTER FOUR

CONCLUSION AND RECOMMENDATIONS ON THE ROLE OF THE DIRECTOR OF PUBLIC PROSECUTIONS IN ADMINISTRATION OF CRIMINAL JUSTICE IN UGANDA

4.1 Introduction.

The researcher has gone a long way to investigate and critically analyze the legislation covering the DPP and the role of the office of the DPP in administration of criminal justice in Uganda. The second chapter was focusing on the legislation considered in establishment and performance of the DPP role while the third chapter discussed the role of the DPP in administration of criminal justice in Uganda. How and where he gets the powers to perform the roles without interference of other organs or influence of third parties. The truth is without the DPP office, there could be increased crime and the separation of the office of the Attorney General with the DPP was a great deal the government of the 1960s did. Today, the DPP concentrates on the administration of criminal justice and the Attorney General concentrates on the civil matters for and against the government.

This chapter is intended to give the conclusions and recommendations on how best the DPP office can best execute his/her duties. The researcher shall give his views and personal expressions coupled with what the interviewees in the field of researcher think should be done to improve on the performance of the office of the DPP as far as the administration of criminal justice is concerned. The Researcher will discuss the Conclusions first then finally end with the Recommendations to the study topic.

4.2 Recommendations.

When the DPP prosecutes cases it is offering a public service. In an interview with a one **Jane Okou, a Senior Principle State Attorney** at the office of the DPP, she said; there are stakeholders for the service we offer. The people affected or interested in the work we do have different interests. There are individuals and institutions that have to be affected by our work and have different interests in what we do. The criminal cases that we prosecute have victims of the committed offences.

There are suspects and offenders to the offences. There are witnesses to these offences. In addition to the above we have institutions which work with us and or affected by our work.

The police, the Judiciary and Prisons, inter alia are affected and are interested in our work. If we are to improve the quality of prosecutions then we need to take into consideration the interests of the above mentioned stakeholders. They should be informed and in a way participate in the changes for improvements that we make.

The public on whose behalf we prosecute need to know and appreciate what we are doing on their behalf. They too may be having ideas that may improve our performance. As we plan to improve the quality of our prosecutions we should plan strategically and take public interest as a major factor into consideration. We should in our planning involve the different stakeholders.

For our Directorate, we have a five year Development Plan in the Developing the plan we consulted our staff and they made an input. We also involve the different institutions and different community leader that we work with. Their views on our performance are taken into considerations.

As we plan to improve performance we then have to address the issues that affect the stakeholders. There are challenges we must plan to address that differently affect quality of prosecutions. Some of the issues that had to be addressed are:-

1. The delay in disposal of criminal cases in the criminal justice system has to be reduced.
2. Pre-trial detention which raises issues of human rights has to be addressed.
3. The period spent on remand before disposal of cases.
4. The trial period of criminal cases.
5. The defense lawyers' performance
6. The turn up and concerns of witnesses.
7. The victim's involvement and interest in their cases
8. Public interest and support as witnesses

In our strategic planning we focus on such and other interests as challenges to address.

When we are doing monitoring and evaluation a check on these issues by consulting the institutions and individual gives a feedback. This feedback helps us to assess whether we have improved, stagnated or declined. When these concerns are in a way addressed our conviction is that we have improved.

In respect to the above, it is my appeal to the government to help support the DPP office by boosting its financial muscle. I suggest that a great and substantial amount of money be allocated to the office of the DPP. These funds will help facilitate the movement and transportation of the prosecution witnesses. PWs are ones that help the prosecution process to stand. They help the DPP to sustain charges against the accused persons.

Without witnesses, the prosecution process would be compromised. Evidence in form of exhibits are in most cases provided by the Prosecution Witnesses (PWs). In this regard, some of these witnesses come from far. The only way to ensure that they attend court to give evidence against the accused is to facilitate their transport costs and other allowances.

I would recommend the government to increase funding to the Office of the DPP to help facilitate the PWs.

I would also suggest that the government increases the staff. There are several criminal cases in Uganda to be prosecuted. The delay to finalize these cases expeditiously is due to under staffing. The DPP should request the government to increase the state attorneys to have these cases with a speedy touch to bring justice to the public in time. The saying “justice delayed is justice denied” should be put in mind of the office of the DPP so as to bring justice to the public in time.

As I went on to interview staff at the office of the DPP, they said that some of the witnesses deliberately refuse to appear in court to give evidence against the accused persons. This hinders the smooth running and performance of the DPP roles. These witnesses fear that they may lose their lives in case they adduce evidence against the culprits and they are convicted. Their family members may become a threat to the supposed witnesses. In this regard, it is to my recommendation that the DPP and the police introduce and establish a Witness Protection Unit to help protect witnesses especially in capital offences.

Some witnesses refuse to give testimony in court because they suffer stigma, especially principle witnesses who are defiled, raped or sexually assaulted. They fear to be seen in public courts and think they may lose dignity in public. I would recommend that cases concerning defilement and rape where victims fear to be exposed to the public figures be

handled in Judge's Chambers or in camera to ensure the witnesses gain confidence to give evidence in court.

I would also recommend the DPP to avoid unnecessary adjournments in court to help expedite the process of prosecution and dispose quickly the cases at hand. This will help reduce on the back log and open room for more new cases to be handled and prosecuted.

There is also the need for the criminals who commit capital offences to be indicted directly from the High court since the High court enjoys all Original jurisdictions to try all criminal matters. There is a lot of time wasted in committal proceedings i.e. pre-trial proceedings in the Magistrate's court. For instance, the Matthew Kanyamunyu case has up to date since last year not been committed to the High court for trial. Such time spent on remand by the accused person as collection of evidence is done by prosecution is quite alarming. Let there be a direct indictment of criminals and as investigations go on, the accused can be tried on the first hand evidence gathered.

I would recommend the government to remove the personal jurisdiction of the General Court Martial and ministry of defence over any civilian, including retired military personnel, even when the civilian is accused of acting or conspiring to act with active duty military personnel in cases of military personnel limit the subject matter jurisdiction of the court martial to violations of the military code. Remove the jurisdiction of the General Court Martial over the crimes of treason, terrorism and related offences, by whoever is committed.

Digitalization of the Criminal system.

The government should promote research in the office of the DPP in order to help fasten the process of prosecution. This can be done by providing computers and IT equipment to help quicken the process. The physical files can be digitalized to promote digital system in crime. Most times, it is hectic to look for the physical files in the record rooms. By the time one lands on these files, time is wasted and also energy wasted that would be used instead to do other things.

There has been great fear among the State Attorneys in prosecuting cases involving terrorism, rebel activities, treason, and other sensitive crimes. These prosecutors fear that in case they go deep in prosecuting those crimes and pinning the culprits to the alleged crimes, they may

lose their lives. One of the interviewees, whose name is withheld, said that since the death of their colleague, “**Joan Kagezi**”, they have slowed down their investigations and do prosecute with fear engulfed in their hearts. They are insecure and do not like what they are doing. Joan Kagezi was gruesomely shot dead by a goon of murderers said to be connected to the ADF rebels who were caught and charged for killing Muslim Clerics recently. They are apparently tried at the High Court of Uganda Criminal Division at Kampala.

The researcher recommends that the government provides security to the state attorneys who are involved in serious and sensitive criminal offences to enable them gain momentum and do their work without fear or favour.

4.3 Conclusion

The Office of the DPP is an autonomous institution not subject to the direction or control of any person or authority. The exercise of DPP’s authority and mandate should have regard to public interest, the interest of the administration of justice and the need to prevent abuse of legal process.

Therefore, the DPP in performance of his or her office should note that the office is part of the Justice Law and Order Sector (JLOS) whose mission is to ensure that all people in Uganda live in safe and just society. However, the DPP has not fully attained this. The JLOS is one of the sectors created by the Sector Wide Approach (SWAP), which was more coherent and coordination among sector-related Government Ministries, Departments and Agencies (MDAs) in their pursuit of development.

In a nutshell, Prosecution is critical in the proper administration of criminal justice. It has to be continuously assessed to ensure that it is efficient and effective. The improvements in prosecutions have to be linked to improvements in the other criminal justice institutions. There is need therefore for increased coordination and collaboration between the prosecution service and other organs in the criminal justice system. The public should be sensitized to appreciate the improvements that are effected. The process of improving the prosecution service is a continuous process.

Finally, despite the existence of provisions in the Public Prosecutions Act, the Constitution, the Magistrate's Act, Uganda Police Act, Criminal Procedure Act, and other legislations concerning the performance and establishment of the office of the DPP, the role of the DPP is compromised due to several interferences from other authorities and persons in the government.

The researcher established this problem in the main body of study. In the following paragraphs, the researcher intends to ascertain the challenges in the office of the DPP and find possible ways on how best these challenges and problems can be met to help expedite the process of criminal justice in Uganda.